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Sarah Hennessey

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\_\_\_\_\_  
Nov. 12 110  
November 12, 2010IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Valery Levitan et al.  
For: GAME SYSTEM FOR HANDHELD PERSONAL  
DEVICES  
Serial No.: 10/809,329  
Filed: March 26, 2004  
Art Unit: 3714  
Our Reference: WH-11 979US

133 Richmond Street West  
Toronto, Ontario M5H 2L7

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA  
U.S.A. 22313-1450

November 12, 2010

Attention: Examiner Milap Shah

Dear Sir:

**APPEAL BRIEF**

Enclosed are an Extension of Time and an Appeal Brief for filing in the above-identified application.

Notice of Appeal was filed on May 11, 2010 and the Appeal Brief was due on July 11, 2010. The first month extension of time was filed on July 12, 2010 and a further request for an extension of time was filed on August 11, 2010. Therefore, the enclosed Extension of Time is a further two month extension of time. The required disbursement for the extension of time is believed to be \$620.00 (\$865.00 for a small entity less \$245.00 already paid).

Nov. 12. 2010 4:52PM Dennison Associates

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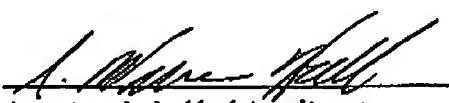
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Application No. 10/809,329  
Appeal Brief dated November 12, 2010  
Appeal of Final Action of November 12, 2009

It is requested that the required disbursement for the Notice of Appeal  
be applied to our deposit account No. 040752.

Respectfully submitted,



Agent on behalf of Applicant  
S. Warren Hall  
Registration No. 30,350  
(416) 368-8313

WH/sjh  
Encl.

Nov. 12. 2010 4:52PM Dennison Associates

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PTO/SB/22 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

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<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b>		Docket Number (Optional)																								
FY 2009 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)		WH-11979US																								
Application Number 10/809,329		Filed March 26, 2004																								
For GAME SYSTEM FOR HANDHELD PERSONAL DEVICES																										
Art Unit 3714		Examiner Milap Shah																								
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.																										
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):																										
<table> <thead> <tr> <th></th> <th style="text-align: center;"><u>Fee</u></th> <th style="text-align: center;"><u>Small Entity Fee</u></th> <th></th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> One month (37 CFR 1.17(a)(1))</td> <td style="text-align: center;">\$130</td> <td style="text-align: center;">\$65</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Two months (37 CFR 1.17(a)(2))</td> <td style="text-align: center;">\$490</td> <td style="text-align: center;">\$245</td> <td>\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Three months (37 CFR 1.17(a)(3))</td> <td style="text-align: center;">\$1110</td> <td style="text-align: center;">\$555</td> <td>\$ _____</td> </tr> <tr> <td><input checked="" type="checkbox"/> Four months (37 CFR 1.17(a)(4))</td> <td style="text-align: center;">\$1730</td> <td style="text-align: center;">\$865</td> <td style="text-align: center;">\$ 620.00</td> </tr> <tr> <td><input type="checkbox"/> Five months (37 CFR 1.17(a)(5))</td> <td style="text-align: center;">\$2350</td> <td style="text-align: center;">\$1175</td> <td>\$ _____</td> </tr> </tbody> </table>				<u>Fee</u>	<u>Small Entity Fee</u>		<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$130	\$65	\$ _____	<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$490	\$245	\$ _____	<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1110	\$555	\$ _____	<input checked="" type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1730	\$865	\$ 620.00	<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2350	\$1175	\$ _____
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<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> A check in the amount of the fee is enclosed. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached. <input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. <input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>040752</u>																										
<b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>																										
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. <input type="checkbox"/> Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96). <input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>30,350</u> <input type="checkbox"/> attorney or agent under 37 CFR 1.34. <small>Registration number if acting under 37 CFR 1.34</small> _____																										
 Signature		November 12, 2010 Date																								
S. Warren Hall Typed or printed name		416-368-8311 X 133 Telephone Number																								
<small>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</small>																										
<input type="checkbox"/> Total of _____ forms are submitted.																										

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Times will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICEAPPEAL BRIEF (37 C.F.R. §1.192)

In Re Application of ) Examiner: Milap Shah  
Valery Levitan et al. ) Art Unit: 3714  
)  
Serial No. 10/809,329 ) Attorney Docket #: WH-11979US  
>)  
Filed: March 26, 2004 )  
>)  
For: GAME SYSTEM FOR ) Submitted: November 12, 2010  
HANDHELD PERSONAL )  
DEVICES )  
  
To: Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA  
U.S.A. 22313-1450

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Appeal of Final Action of November 12, 2009

**APPEAL BRIEF (37 C.F.R. §1.192)**

This is an appeal of the Examiner's final rejection of claims 1 to 8, 11 to 12, 14 to 16 and 18 to 24, issued on November 12, 2009.

**1. REAL PARTY IN INTEREST.**

The real party of interest is JVL Corporation, the Assignee of record, having the business address of 553 Basaltic Road, Concord, Ontario, CANADA, L4K 4W8.

**2. RELATED APPEALS AND INTERFERENCES.**

None.

**3. STATUS OF CLAIMS.**

Claims 1-8, 11, 12, 14-16 and 18-24 are pending in the application.

Claims 9, 10, 13 and 17 are cancelled.

Claims 1-8, 11, 12, 14-16 and 18-24 are being appealed.

**4. STATUS OF AMENDMENTS.**

No amendments have been filed subsequent to the Final Rejection.

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**5. SUMMARY OF CLAIMED SUBJECT MATTER.****CLAIM 1**

A personal portable device (4, 5) includes a primary function allowing communication over a wireless communication network (page 7 line 1; page 6 lines 18-22) in combination with a secondary personal entertainment function (page 5 line 23) that includes a series of downloadable games (page 5 lines 8-11; page 9 lines 9-12) where each downloadable game is operative in a local mode and a registered mode (page 7 lines 19-22). To operate in local mode the device includes a database for tracking use information of a plurality of users of the device with respect to the play of the at least one game. Game summary information for the local mode is maintained on the personal portable device including a series of high scores for the collective users (page 7 lines 19 to 23; see "Hall of Fame: Results for This Device" in Fig. 4). High scores for local mode accept any identified user. A personal portable device is also capable of operating in a registered mode where the portable communication device communicates with a game server computer and records high scores for registered mode requiring that each user is registered with a game server computer to allow the high scorers thereof to be uploaded to the game server computer (page 9 lines 6-22). The personal portable device (4, 5) includes, in the database, the summary game information with respect to local mode and

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registered mode (for Registered Mode see "Hall of Fame World Wide Synchronized Results" in Fig. 5).

#### CLAIMS 2 AND 14

Dependent claims 2 and 14 include the limitations of claim 1 and also require the at least one game when operated in registered mode to automatically include entry in sweepstakes for each time the game is played (see p. 9 lines 24-35).

#### CLAIM 3

The claim specifies the personal portable device is a cell phone (element 5 Figure 1; page 5 lines 35-38).

#### CLAIM 4

Dependent claim 4 is based on claim 1 and includes the personal portable device to receive and retain in the device collective summary use information reflective of use information from all registered users. This information is retained by the device (see p. 8 lines 10-23 and Fig.'s 4 and 5).

#### CLAIM 5

Dependent claim 5 is based on claim 4 and the personal portable device not only stores the summary use information and also allows selective display of this information on the personal portable device, when the device is in the personal secondary entertainment function. Tapping the Cup symbol of Fig. 4 produces screen of Fig. 5 with this information (see p. 8 lines 15-21).

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### CLAIM 6

Dependent claim 5 and the at least one game includes a game menu (40, 48) for displaying game information (elements 70 and 76 of Fig.'s 4 and 5).

### CLAIM 7

Claim 7 clarifies that the game server downloads a series of games that use common game menus (elements 40, 70 and 76 of Fig.'s 2, 4 and 5) allowing access to game user information. Common menus improve efficiency, involve less memory and simplify synchronization (see p. 11 lines 5-10).

### CLAIM 8

Claim 8 includes the limitations of claim 7 and wherein some of the games are operating in sweepstake mode (page 11 line 19).

### CLAIM 15

Claim 15 is based on claim 14 and limits the personal portable device to a cell phone (Fig. 5; page 5 lines 35-38).

### CLAIMS 12 & 16

The game server downloads a plurality of games to the personal portable device where during play of a game it provides menu options for playing at least some of the games in sweepstake mode (see p. 9 line 24 to p. 10 line 14; p. 10 line 33 to p. 11 line 3).

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**CLAIM 18**

Claim 1 plus at least one game operable in "Tournament for Fame" is tracked by the game server 24 (see Fig. 1, page 13 lines 9-22).

**CLAIM 19**

Claim 19 is based on claim 18 but limited to cell phone 5 as the personal portable device.

**CLAIM 20**

In dependent claim 20 the personal portable device includes a plurality of games that are operable in local mode and registered mode with the plurality of games each presenting an option to a player to access both high scores for local mode and high scores for registered mode (page 9 line 6 to 22, Figures 4 and 5).

**CLAIM 22**

Claim 22 allows access to local and registered game results from game menu 40 (Fig. 2) to produce game screens 70 and 76 of Fig.'s 4 and 5.

**CLAIM 23**

Dependent claim 23 is based on claim 1 and includes at least one additional game that includes a login screen (60) allowing a user to login as a member for registered mode or as a guest for local mode. In local mode the game performance information of the user is stored in the database of the at

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least one additional game and this information is accessible for display to a user of the at least one additional game using a selectable game menu option (see p. 7 line 27 to p. 8 line 8; Fig's. 3 and 4).

#### 7. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 3-7, 11 and 18-24 are unpatentable under 35 U.S.C. 103(a) over Emmerson (US Patent Application Publication No. 2002/0103019).

Whether claims 2, 8, 12 and 14-16 are unpatentable under 35 U.S.C. 103(a) in view of Acres (US Patent Application Publication No. 2001/0034643).

#### 8. ARGUMENTS.

REJECTION UNDER 35 U.S.C. 103(a) over Emmerson (US Patent Application Publication No. 2002/0103019)

#### CLAIMS 1 AND 11

Claim 1 in the application is rejected in that Emmerson discloses a personal portable device to be carried by a user having a primary practical function (i.e. to make telephone calls) and a secondary personal entertainment function (i.e. to play games). The primary practical function includes the

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capability to communicate over a wireless communication network with a separate computer or computer server 21. In the rejection on page 5 of the Action, the Examiner states "the at least one game being operable to receive from the game server computer when the personal portable device is in communication with the game server collective results for said at least one game of other personal portable devices including high scores and collective high score ranking information (paragraphs 0040-0041, where Emmerson discloses that game server receives scoring information from each of a plurality of players, updates a league table with the standings of each player and informs the player where he stands in the league table, thus collective use information is obtained and a high scores and ranking is provided)."

It is respectfully submitted that Emmerson does not include games with a database as required in claim 1 and certainly does not include games where the database is updated and includes high scores and collective high score ranking information for both the local mode and the registered mode that is maintained on a personal portable device. Emmerson in paragraphs 0040-0041 merely states that the game device receives a message from the server confirming receipt of the game information and informing the user of where he stands in the league table. It is respectfully submitted that this is not the downloading of high scores and collective high score ranking information, but merely a single result of where a user ranks overall. For example, the user

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could be ranking 153. This does not provide high score information nor does it provide information that may act as an incentive for the user to continue. Such information, if available, would only be available on the game server and not on the game personal device. There is no disclosure or suggestion in Emmerson of providing games with a database and storing local and registered mode results in the database of the game. At best Emmerson merely teaches sending a communication to the device providing a ranking and there is no disclosure of modifying games to include a database for storing this information and allowing subsequent access thereto.

In the Official Action, the Examiner argues "Emmerson as modified and discussed in the previous rejection discloses a tracking arrangement including a database (i.e. memory on the cellular phone) for tracking use information of a plurality of users". Emmerson appears to track information on the game server, however Emmerson does not disclose games operable on a personal portable device having a database for tracking of such information. In contrast, Emmerson teaches a separate computer specifically designed as a client server system or as referred to in the Emmerson specification as a game server. The present invention allows the games to be downloaded to a personal portable device or cell phone and game results and usage to be tracked in a database of the device. As the Examiner can appreciate, there is no requirement to change or increase the sophistication with respect to the primary purpose of

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the portable device as the particular tracking arrangement cooperates with the downloaded game. Note, according to the structure as claimed, each of the plurality of games includes this capability. With this arrangement there is no requirement to include additional software or a separate database for each game.

In the Official Action, it is acknowledged on page 5 that Emmerson lacks an explicit disclosure of any game that is playable in a local mode and a registered mode. Emmerson teaches maintaining registered mode results on a remote server. The further references at best may track a high score. The combination of these references would not provide summary information maintained on the personal portable device including a series of high scores for a plurality of collective users including in the local mode the high scores and accepting any identified user in the local mode.

In the Official Action, it is argued that local mode for a game device is notoriously well known in the art. In this regard, the Examiner refers to Nagaoka (US Patent Application Publication No. 2003/0093168) entitled "System and Method for Providing Game Ranking Service" or Bates et al. (US Patent 6,709,335) entitled "Method of Displaying Message in an Interactive Computer Process During the Times of Heightened User Interest".

The Nagaoka publication is clearly directed to a very sophisticated system and is not directed to a personal portable device having a primary function and a secondary gaming function. It is clear that this secondary

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reference teaches a much more sophisticated system and again teaches a specialized software on a game server at a remote location. It is respectfully submitted that this reference is not directed to a personal portable device having a primary communication function and a secondary gaming function as required in the present claims. Again this patent uses a game server to access all information.

The example provided in the Bates et al. reference with respect to a mobile telephone is merely the high score of a particular game and describes the possibility that this high score will be exceeded. There is no disclosure of tracking of different high scores for different users of the device and certainly there is no disclosure of downloadable games with a database for tracking of high scores in both local and registered mode of the games.

It is respectfully submitted that Emmerson clearly teaches a personal portable device that relies on a game server for tracking of high scores and ranking in a registered mode. The system does not include games where the personal portable device includes a database that tracks game results of different personal users in both a local mode where information is entered by the user and in registered mode where much of this information with respect to high scores and the particular users is downloaded to the device.

The references cited by the Examiner to establish that it is well known to provide games for personal portable devices with the local mode and

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the tracking as specified in the present claims are believed to be deficient. The Nagaoka application clearly teaches a much more sophisticated system and is not a system that is suitable for a personal portable device having a gaming function as a secondary capability. The Bates et al. patent discloses that a mobile phone can track a high score, but does not include the ability to download games that cooperate with a database of the device to track both local mode high score by user, and registered mode high score by user. Furthermore, according to the Emmerson device and disclosure, this type of information is stored on the server and the user of the cell phone accesses the server to view the information. Given the clear teaching of Emmerson to track on the game server registered mode, where is the suggestion to have games that operate on a personal portable device that tracks both local and registered results?

As set forth in the Background of the present application, tournaments and high scores in a registered mode using a game server only appeal to a limited group of game players. Emmerson partially acknowledges this point in the disclosure at paragraph 29 where he states that the game to be sent to a user is at a level which is suitable for the user. This is based on a user profile. This assumes that the user will coordinate with the game server computer and will have provided a profile that allows this conclusion to be made.

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In contrast, the personal portable device of the present invention having the dual capability and games that allow for the tracking of this information, encourage a user to operate in local mode and gain a host of experience playing against others where the scores are tracked and ranking information is provided. The user can also contact a game server and have global high score information downloaded to the device. This can all occur while the user continues to play the games in local mode. At some point in time after considerable experience has been obtained, the user can then seek to play a game in registered mode. To provide further incentive as specified in dependent claims some games are operated in sweepstake mode providing a chance to win that is not based on skill.

It is respectfully submitted that the Emmerson game server disclosure does not operate on this basis and does not recognize the benefits of a system that operates in this manner. A person skilled in the art would continue to follow the accepted strategy of a game server for tracking of the information and the registration of the user for a particular game. The collective prior art has not recognized the benefits of a game for a personal portable device or cell phone capable of tracking this type of information in a controlled environment determined by the user in the local mode and the ability at some point in the future to consider playing the same game in a registered mode.

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### CLAIM 3

Claim 3 requires that the personal portable device is a cell phone. The particular combination claimed where the games are operated on a cell phone and are adapted to track and provide game information of both local and registered users in a database of the device, provides a practical and memory efficient solution. This is particularly suitable for cell phones as processing and memory capacity are needed for other functions. The prior art references teach a different solution of providing the information on the game server and using the communication capability of the phone to access the information. It would seem this information would not be readily available in the game and would not be available in areas without communication capability (such as planes, remote camping, etc.).

### CLAIM 4

The claim requires a particular cooperation between the game server and the personal portable device. Information regarding game use is uploaded to the game server from the database of the game and summary use information of registered users maintained by the game server is downloaded and stored in the database. This exchange of information requires the user to be registered.

Emmerson is based on accessing a game server and teaches away from the downloading of registered user results to the device and maintaining thereof on the device in a database thereof.

**CLAIM 5**

The collective summary use information of both local mode and registered mode is available within the secondary game function. The user immediately can evaluate his own results after a successful game without accessing a game server and without initiating the primary communication function. With this arrangement a user is much more likely to access this information as part of the game experience.

**CLAIM 6**

Within the at least one game, a game menu is accessible to display the game use information. This is possible as the at least one game cooperates with the database to make this information available by selecting an appropriate game menu option. None of the references operate in this manner as the information is only available after connection to a game server that maintains and presents registered user game information and not as part of game play.

**CLAIM 7**

The structure requires a series of games that use common game menus for allowing users to access game user information. Using common menus provides memory efficiencies and also builds on the previous experience of the user. Games for this type of secondary entertainment function typically are of a simplified nature due to the memory capacity of the device and the operator control functions assigned to keys of the device. With the claimed

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invention games can be updated or replaced and provide the summary game information. This allows the game provider to build loyalty and retain customers. The references again operate on accessing the game server frequently and only appeal to a limited group of customers.

#### CLAIMS 20 AND 21

Each of the plurality of games in local mode allow access to high scores for registered mode. The games are modified to provide this information and make it available as part of normal game play. In contrast the cited art only makes the information available by contacting a game server and viewing information maintained by the game server. The systems are different. Consider the time and possible costs required to initiate contact with a game server and access the particular information by a series of choices. In contrast this information is retained by the device and is accessible when in local mode.

#### CLAIM 22

A player can quickly consider both local mode results and registered mode results by actuating an icon provided in a game screen. This arrangement is convenient and the information is quickly accessed as part of game play.

#### CLAIMS 23 AND 24

The at least one additional game includes a login screen as part of the database tracking. A user that is registered with the game server can be distinguished from a guest where results are restricted to local mode. Local

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mode results and registered mode results are available to a user using a game menu option. Information is conveniently available quickly within game play. In the prior art registered user game play information is available by contacting and executing a series of steps on the game server.

In claim 24 a game menu option is provided for synchronizing the game of the device with high scores of registered users maintained on the game server. This synchronization is accessed through a game menu option available to a user playing the game. The steps required to synchronize, i.e. contact, select the appropriate game, and download information are automated for the user.

REJECTION UNDER 35 U.S.C. 103(a) in view of Acres (US Application

Publication No. 2001/0034643)

CLAIMS 2 AND 14

The claim stands rejected in view of Emmerson in view of Acres (US Application Publication No. 2001/0034643). Claim 2 further specifies that the at least one game is operable in a sweepstake mode offered through the game server computer. The sweepstake mode requires an entry for each time this one game is played and communicated to the game server computer during a predetermined time. As disclosed in the present application, registration of users for a game tournament or high score contest is only attractive to a small group of players. There is a much larger segment of game players who

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essentially are not capable of winning such a contest or competition and therefore have little interest in the same. The particular personal portable device as claimed addresses a number of these deficiencies allowing the user to run a local mode and benefit from the same type of competition that appeals to these very experienced players. In a local mode the user and players know one another as it is the user's device that allows this competition to be completed. This known group of players gains experience and also enjoys the local competition. At some point some of these players may wish to also proceed in the registered mode and the ability of the game to download high scores from registered mode allows them to consider their possible success in this environment.

With the structure as defined in claim 2, a further incentive is provided to this type of player. In contrast to rewarding high score, the present system in sweepstake mode merely encourages game play or the number of times the game has been played, whether the player completes a very successful game or whether the player completes a game with a very poor score makes no difference in the sweepstake mode. This arrangement as claimed allows for a further incentive to the average game player as opposed to the experienced or expert game player.

The secondary reference of Acres et al. in paragraph 18 referred to by the Examiner does disclose a sweepstake mode for a game where the game

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includes advertising screens. The sweepstake mode is to provide a reward for the player to play the game and view the advertising. There is no consideration of a personal portable device that has local mode and registered mode in combination with a sweepstake mode where the player is rewarded for participation. This system as defined in claim 2 removes the expertise associated with normal game contests or tournaments and allows the game server to provide a further incentive to the average game player. The secondary reference in combination with Emmerson would include a game server having games that can be operated in a registered mode and games having advertising and a sweepstake mode. There is no recognition in either the primary reference of Emmerson or the secondary reference of Acres et al. of being able to appeal to the much larger game player population and provide them not only an advantage in a game that can be played in local mode, but also a game that allows entry in a sweepstakes merely based on playing of a game irrespective of the score. This arrangement acts as a part of the progression from players comfortable with local mode to players operating in registered mode due to the sweepstake incentive, to eventually registered mode for fun.

The sweepstake incentive associated with the Acres et al. reference is associated with viewing of advertising and there is no recognition that a game without such advertising would be advantageous to operate in a sweepstake mode. It is therefore submitted that the references do not render the claimed

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invention obvious and it is only hindsight based with knowledge of the present disclosure that this reference is even being considered with respect to the Emmerson dedicated game server system.

#### CLAIM 8

The claimed invention requires a series of games that use common menus to access local and registered mode results where at least some games are eligible for sweepstake mode based on game participation. The invention provides a system of games where the games are similar in game menu structure promoting play of additional games due to familiarity and also providing a sweepstake incentive for play in a registered mode. The system encourages game play of multiple games in both local and registered mode. In contrast, the prior art encourages game play on a server.

#### CLAIMS 12 AND 16

The claimed device includes a game server downloading a plurality of games with several game menu options for playing of the games in a sweepstake mode. Sweepstake mode and local mode each provide a game experience that is attractive to a large group of potential customers. The games, due to the secondary entertainment function, are of reduced complexity and the ability to confirm the actual game results are authenticated is difficult. In contrast to the cited prior art that encrypts results before uploading to a game server, the present arrangement provides an incentive for just playing the game.

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With this arrangement the need for authentication is not critical or required.

The prior art teaches a traditional system based on player skill.

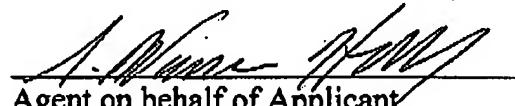
In claim 16 a plurality of games is downloaded to the device and the games are playable with or without the sweepstake mode. With the claimed device the user determines the appropriate format (i.e. local mode vs. registered mode; sweepstake mode vs. non-sweepstake). In the prior art of Emmerson these choices are not possible. In Acres the sweepstake mode is not an option available to the user as part of the game where options are selected by the user.

**CLAIM 15**

The system when used with a cell phone is practical as the game software is adapted to include these functions and can be optimized if a series of games are provided. In contrast, the prior art of Emmerson specializes the game server and users the communication capability of the phone. This arrangement fails to provide the player development in local mode possible by adapting the game software.

In view of the above, it is requested the refusal of the claims be reversed.

Respectfully submitted,

  
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**APPENDIX A:**

**Listing of claims:**

1. ( rejected): A personal portable device to be carried by a user and having a primary practical function and a secondary personal entertainment function, said primary practical function including the capability to communicate over a wireless communication network with a separate computer, said secondary personal entertainment function includes a series of downloaded games downloaded to said personal portable device using said communication capability of said primary practical function to form a wireless connection with a game server computer and have said game server computer download at least one additional game, said at least one additional game including as part thereof a tracking arrangement including a database for tracking use information of a plurality of users on said device with respect to the play of said at least one game and to communicate said use information to said game server computer over said wireless communication network when said personal portable device is in communication with said game server computer; said at least one game being operable to receive from said game server computer when said personal portable device is in communication with said game server collective results for said at least one game of other personal portable devices including high scores and collective high score ranking information; and wherein said at least one game is operable in a local mode and a registered mode where each mode

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includes game summary information maintained on said personal portable device including a series of high scores for collective users, said high scores for local mode accepting any identified user, said high scores for registered mode requiring each user being registered with said game server computer and the high scores are uploaded to the game server computer.

2. (rejected): A personal portable device as claimed in claim 1 wherein at least one game is operable in a sweepstake mode offered through said game server computer; said sweepstake mode being based on an entry for each time at least one game is played and communicated to the game server computer during a predetermined time period.

3. (rejected): A personal portable device as claimed in claim 1 wherein said personal portable device is a cell phone used to access and communicate with said game server computer over said wireless communication network.

4. (rejected): A personal portable device as claimed in claim 3 wherein said device when used to connect with said game server computer allows a user to initially register with said game server computer as a registered user or if the user has previously registered to communicate use information to said game server computer and additionally receive from said game server computer

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collective summary use information reflective of use information from all the registered users.

5. (rejected): A personal portable device as claimed in claim 4 wherein said collective summary use information is stored in said personal portable device and selectively displayable when said personal portable device is in said personal secondary entertainment function.

6. (rejected): A personal portable device as claimed in claim 5 wherein said at least one game includes a game menu with a display function for displaying game use information received from said game server computer.

7. (rejected): A personal portable device as claimed in claim 5 wherein said game server computer downloads a series of games to said personal portable device and said series of games use common game menus for allowing a user to access game user information.

8. (rejected): A personal portable device as claimed in claim 7 wherein at least some of said series of games are eligible for operating in a sweepstake mode based on registration and the number of times the eligible games are played and communicated to the game server computer.

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9. (canceled) A personal portable device as claimed in claim 8 wherein each game operating in a sweepstake mode includes advertisement of a sponsor displayed on said personal portable device during use of said game.

10. (canceled) A personal portable device as claimed in claim 9 wherein said advertisement is displayed on said portable display device during communication with said game server computer.

11. (rejected): A personal portable device as claimed in claim 1 wherein said personal portable device is a personal data assistant device which communicates with said game server computer when said personal data assistant device is linked with a computer which connects with said game server computer and allows communication of said personal data assistant with said game server computer.

12. (rejected): A personal portable device as claimed in claim 1 wherein said game server computer downloads a plurality of games to said personal portable device and provides the user with several game menu options for playing at least some of said games in a sweepstake mode, said sweepstake mode

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including a draw where an entry in the draw is provided each time a game in sweepstake mode is played.

13. (canceled) A personal portable device as claimed in claim 1 wherein said at least one game is operable in a local mode and a registered mode where each mode includes game summary information including a series of high scores for collective users, said high scores for local mode accepting any identified user, said high scores for registered mode requiring each user being registered with said game server computer and the high scores are uploaded to the game server computer.

14. (rejected): A personal portable device as claimed in claim 1 wherein at least one game is operable in a sweepstake mode offered through said game sever computer said sweepstake mode awarding a prize based on a draw where each game played provides an entry into the draw.

15. (rejected): A personal portable device as claimed in claim 14 wherein said personal portable device is a cell phone used to access and communicate with said game server computer.

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16. (rejected): A personal portable device as claimed in claim 1 wherein said game server computer downloads a plurality of games to said personal portable device and provides the user with several options for playing at least some of said games in a sweepstake mode.

17. (canceled) A personal portable device as claimed in claim 13 wherein said at least one game includes a registration function for registering the personal portable device with the game server computer for participation in game tournaments operated by the game server computer where games are played on personal portable devices and game results are communicated to the game server computer when connected thereto.

18. (rejected): A personal portable device as claimed in claim 1 wherein said at least one game is operable in a tournament for fame mode where said game server computer receives and processes game results from a group of personal portable devices.

19. (rejected): A personal portable device as claimed in claim 18 wherein said personal portable device is a cell phone.

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20. (rejected): A personal portable device as claimed in claim 1 wherein said device includes a plurality of games operable in local mode and registered mode with said plurality of games each presenting an option to a player to access both high scores for local mode and high scores for registered mode.

21. (rejected): A personal portable device as claimed in claim 1 wherein each of said plurality of games in local mode allows access to high scores for registered mode.

22. (rejected): A personal portable device as claimed in claim 21 wherein each of said plurality of games in local mode includes a game screen providing high scores for local mode and said game screen includes an icon for accessing high scores for registered mode.

23. (rejected): A personal portable device as claimed in claim 1 wherein said at least one additional game includes a Login screen allowing a user to login as a member for registered mode or as a guest for local mode where game performance information of the user is stored in said database of said at least one additional game and is accessible for display to a user of said at least one additional game using a selectable game menu option.

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24. (rejected): A personal portable device as claimed in claim 23 wherein said at least one additional game includes a game menu option that when actuated causes said personal portable device to obtain from said game server computer said high scores for said at least one game based on registered users and store said high scores in said database and display said high scores on said personal portable device when initiated by a user.